

# The Sydney Morning Herald

No. 6244.—VOL. XXXIX.]

THURSDAY, JUNE 10, 1858.

[PRICE FOURPENCE]

**BIRTHS.**  
On the 20th April, at her residence, Gable, Mrs. Joseph Bailey, of a daughter.  
On the 4th instant, at Burdett-street, Hyde Park, the wife of Henry Anderson, civil engineer, of a son, named Henry Anderson.  
On the 10th April, at the residence, near Windsor, Mrs. John Thompson, of a daughter, named Mary Thompson.  
On the 25th June, at her residence, Parramatta, near Sydney, N. S. Wales, Mrs. Alexander Gray, of a daughter.  
On the 25th instant, at her residence, Hamilton, the wife of Mr. Frederick Hamilton, of a son.

**DEATHS.**  
In November last, from the effects of a gunshot wound received in action in the advance on Lucknow, under the Col. Campbell, Edward Darby, Esq., M.D., eldest son of Sydney, New South Wales, aged 24.  
On the 10th April, 1858, at his residence, near Windsor, Henry William, aged 31 years, youngest son of the late Thomas M'Neil, Esq., J.P., many years Managing Director of the Bank of Australia, Sydney.  
On the 4th March, at Windsor, England, J. W. Jones, Esq., late of this city.  
On the 25th May, Sarah Ann, wife of Mr. Joseph Smith, hatter, of Pitt-street, and eldest daughter of Mr. William Taylor, of Parramatta, died at her residence, near Windsor, New South Wales, aged 24 years.  
On the 10th of March, at the residence, near Windsor, New South Wales, of Thomas M. Smith, Esq., aged 10 years, eldest son of Sydney, New South Wales, aged 10 years.  
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**SHIP ADVERTISEMENTS.**  
**EUROPEAN AND AUSTRALIAN ROYAL MAIL.**  
REDUCTION OF PASSAGE OVERLAND ROUTE.  
The Royal Mail Steamship AUSTRAALIAN, will be despatched for London and Australia, on FRIDAY, 11th of JUNE, at 10 o'clock p.m. The passage-money from Australia to England, at intermediate ports, on FRIDAY, 11th of JUNE, at 10 o'clock p.m. The passage-money from Australia to England, at intermediate ports, on FRIDAY, 11th of JUNE, at 10 o'clock p.m. The passage-money from Australia to England, at intermediate ports, on FRIDAY, 11th of JUNE, at 10 o'clock p.m.

**ROYAL MAIL STEAMSHIP AUSTRALIAN.**  
Passengers by this ship will please take notice that their baggage must be on board on FRIDAY, 11th of JUNE, at 10 o'clock p.m. The passage-money from Australia to England, at intermediate ports, on FRIDAY, 11th of JUNE, at 10 o'clock p.m. The passage-money from Australia to England, at intermediate ports, on FRIDAY, 11th of JUNE, at 10 o'clock p.m.

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**SHIP ADVERTISEMENTS.**  
**FOR MELBOURNE DIRECT.**—To follow the ZONE. The barque TARBET CASTLE, T. S. DOWNS, Master, having on board a large cargo of goods, will have immediate despatch.  
For freight or passage, apply to E. M. BAYERS, Port Phillip Packet Office, 24, George-street.

**FOR HOBART TOWN.**—The first barque ANNIE, 478 tons, under the command of JAMES SMYTH, Esq., will have immediate despatch.  
For freight or passage, apply to E. M. BAYERS, Port Phillip Packet Office, 24, George-street.

**FOR NEW ZEALAND.**—The first-class barque BAZELLE, 478 tons, under the command of JAMES SMYTH, Esq., will have immediate despatch.  
For freight or passage, apply to E. M. BAYERS, Port Phillip Packet Office, 24, George-street.

**FOR OTAGO.**—With immediate despatch. The first-class barque LION, 478 tons, under the command of JAMES SMYTH, Esq., will have immediate despatch.  
For freight or passage, apply to E. M. BAYERS, Port Phillip Packet Office, 24, George-street.

**FOR AUSTRALIA.**—The first-class barque BAZELLE, 478 tons, under the command of JAMES SMYTH, Esq., will have immediate despatch.  
For freight or passage, apply to E. M. BAYERS, Port Phillip Packet Office, 24, George-street.

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**WANTED.**—To charter a vessel, for use as a cargo ship, of about 400 tons, to be employed on the coast of New South Wales, for a voyage direct from Sydney to Rotterdam (Holland). The whole cargo is ready for immediate shipment. Tenders to convey the same by a ship via London cannot be accepted. For further particulars apply to PROBY, KOHLER, and Co., Phillips-street, London.

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**WANTED.** Six first-hand Milliners. Mrs. SPEIRS, 492, George-street.

**WANTED.** For the Hunter district, a Governess; must be thoroughly competent to impart a sound English education, with music. References indispensable. Apply by letter to Mrs. W. DURHAM, care of Mr. Hill, Bath-street, Sydney.

**WANTED.** A respectable Youth, that can write and keep petty accounts. Enquire at J. LEVY'S, watchmaker, 394, George-street.

**WANTED.** A Girl, to nurse a baby. Apply at No. 55, Pitt-street North.

**WANTED.** A General Female Servant. Apply 20, Sussex-street South.

**WANTED.** An active Lad, accustomed to drive a horse. ALEXANDER DICK, Esq., 63, Pitt-street.



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Throughout this distant portion of your journey, a continuous



between this country and Australia. It has been examined by the Executive and Australian Royal Mail Company, I think it right to transmit it to you, for your perusal. I have no objection to its being represented at this department from the Treasury, in answer to the communication on the subject which was made by the Government of Victoria. I am, however, desirous that the letter should be signed in Mr. Wilson's letter will have the effect of ensuring a greater degree of punctuality in the performance of this service.

Governor Sir W. Denison, K.C.B., &c., &c., &c.,

James Wilson, Esq., to H. Macleay, Esq.,

Treasury Chamber, 14th February, 1866.

Sir,—With reference to your letter of the 26th instant, transmitting copy of a despatch from the Governor of Victoria, with a view to the establishment of a direct communication between the General, as to the unsatisfactory manner in which the Executive and Australian Royal Mail Company have hitherto carried out the service, I am glad to hear that the Board have taken the subject up. I am commanded by

Lords Commissioners of her Majesty's Treasury acquaint you, for the information of the Secretary of State the Colonies, that my Lords concur very much in the views taken by Sir H. Barkly as to this service, and they are of opinion that it would be a good means of securing greater regularity if the voyage between Suva and Melbourne were divided by a change of vessels at Point de Galle.

My Lords have perused the representations of the Chamber of Commerce and Industry of India in opposing the proposed extension of the service. My Lords are struck by the extreme irregularity of the service. The Chamber takes every means in their power, short of terminating the contract, to secure the service of the ship. The service is not regular. The heavy fines provided for by the contract are not sufficient to the full extent to which My Lords consider them as due.

The subject of proceeding to more serious measures has been considered by the Government. My Lords have been assured that the Government will not take any further steps up to this time, of course, without consideration.

The Chamber of Commerce has shown the home-Government the extensive and heavy services are performed in the first instance, and the Chamber has never been satisfactory to the Government or to the public; and the Chamber has been unable to put up with a less perfect service for a time, in the hope that the Government would improve the service. In the present period, the Chamber has been unable to put up with a less perfect service, and would improve, and rather than hazard a new contract with a new company, which would again unsettle everything, and expose the Chamber to the same difficulties, the Chamber has decided, next, the European and Australian Company has recently offered to take over the service, and the Chamber has decided to put them in the performance of the India Royal Mail Company to satisfy the Chamber, and the Chamber has decided to put them in the performance of the India Royal Mail Company, which will bring both ships and experience in management to the Chamber, and the Chamber has decided to put them in the performance of the India Royal Mail Company, My Lords are satisfied that the Chamber will be able to put up with the service, and to hope for an improved service.

My Lords are very much obliged to the Chamber for the representations in that direction, and will be glad to urge the Chamber to put up with the service, and to hope for an improved service.

meant payable. I am, Sir, with much respect,  
Yours, &c.,  
JAMES WILSON.

Wilson said: "He believed that the present company was in a position to carry out the contract and that at the same time it was possible to repudiate any solemn agreement that might have been entered into. He contended, however, that matters had reached such a crisis of dissatisfaction as to make it imperative to take some remedial and constructive motion, with a view to putting the Keren route on a sound basis. He contended that, for obviating the gross irregularities complained of, he never had a high opinion of the line now in operation, as it always appeared to him, looking at the place which it occupied, to be a makeshift arrangement for the benefit of Imperial interests, rather than of the Australian colonies. With respect to the third point, it appeared to him that it was clearly their duty to insist on the present line ceasing, to make some effort for establishing a new line, and to see that the distance from Sydney to Panama was not more than 7600 miles, whilst the steaming nearly the whole way would be through comparatively smooth water, and not through the tortuous and dangerous waters of the straits. Having arrived at Panama, he contended that a railway allowed in readiness to convey passengers and goods across the Isthmus to the Port of Aspinwall, on the Atlantic side, a journey which was regularly performed in the space of 12 hours, so that there was a good harbour at each terminus, and a plenty of steamers always available for carrying on the passengers and mails. In fact, he calculated that the distance from Sydney to Liverpool, via New York and Panama, allowed for all the contingencies, could be easily accomplished in 52 days. It must be borne in mind, moreover, that by this line Sydney would be the first port of arrival and the last of departure. He contended that it was the best arrangement that might, if they thought proper, be established, and that to Suez; but considering the facilities which he had of conversing political intelligence by electric tele-

Mr. COWPER said he certainly had no intention of making any question, nor of evading the discussion, which he had raised, on the subject of good. No one would deny the statements made in the resolutions, that the present postal service with Great Britain was very unsatisfactory; but the differential between the rates of the Government was two-and-a-half, the present contract was to some extent a concession to the colonies, and a breach of its terms entitled them to remembrance; and the other question was that argument which had been referred to the Colonies, and had been circulated in order to put the House in a false position of all information upon the subject. That despatch was consistent with the opinions of Mr. Wentworth, but he had been told that the former resolutions of the Colonial Legislature; and the former resolutions of the Home Government to extend the postal service for two years, contrary to the resolutions adopted by the Colonial Legislature during a former administration, the former resolutions were more important aspects of the question, and that Mr. Wilson thought that for a minute had been passed previous to the present Ministry took office, which expressed a determination not to accede to the then proposed extension of the postal service for five years, as had been proposed to the Council. Mr. Wilson thought that the arrangements which were at that time played were now completed, the European and Australian Royal Mail Company having amalgamated with the British Royal Mail Company. With regard to the arrangements which were at that time made to the Mr. Wentworth, the former resolutions of the European and Australian Mail Company were put down, as it inevitably would, if it failed to effect

period by the Royal Mail Company, the communication by steam had been accepted for an indefinite period. Now the colonies had to be consulted, and the previously proposed extension of the contract, and he (Mr. Cowper) could hardly think that the communication by steam depended upon an extension of the term of the contract, that would have been handed over to the West India Royal Mail Company. The matter, however, called for an investigation, and if the hon. member of the present session must have asked some question, members must have agreed, and thus the whole question would have been brought before them. He again repeated that he had said a few days ago with regard to the postage of the mails from Great Britain, that Melbourne ought to take one line, New Zealand, India, and the Imperial Government should take up the connection on the other side of the globe. There were no other places of Mr. Wilson's allusion in reference to the subject, and the hon. member's objections of the contract by the Postmaster-General, Victoria. There was a condition in the contract, and the Government failed to fulfil their part of the contract, and he (Mr. Cowper) thought the Government would be justified in annulling it. The Government was not of the same opinion as he for it did not intend to annul the contract. The arrangement might become more prove; and the friends of the arrangement suggested that the colonists should be consulted. The Royal Mail Company, however, had made additional funds, there was no objection to the

[illegible]

twelve months had passed, if the House were resolved  
a better system might be in operation.  
The motion was put and agreed to.



THE decision of the House upon Mr. FORSTER's motion respecting the liberation of WILLIAM BIRD EVANS amounts to this: that, disclaiming any intention to question the prerogative, it repeats its request for the papers.

The subject divides itself into two parts : first, the alleged grounds for demanding these papers, and second, the cause assigned by the GOVERNOR for declining to furnish them. It is alleged that a reasonable suspicion exists that the prerogative of mercy was improperly exercised in the case of Mr. EVANS—in short that some sinister influence was brought to bear upon the administrators of the Government, by which they were induced to discharge from punishment a person guilty of a very heinous crime. Mr. FORSTER indeed insinuated that some sectarian influence had been concerned. It is difficult to refute an insinuation. Considering how isolated most people are in a colony, we can scarcely fancy anything more natural than that the various associations which are formed upon community of trade, or community of religious feeling, should occasionally offer some aid to individuals in distress, but for such friendly recognition would, when deriving from the mistake of law, or the malignity of prosecutors, have no protection whatever. What kindred are accustomed to do in an older country can only in a new one spring out of the intimate relations of common calling or common faith. It is not, however, pretended that any persons concerned in the administration of justice or in the exercise of mercy have any particular sympathy with Mr. EVANS or his co-religionists. We purposely refrain from entering into the statements upon which this mercy was sought. If, however, it shall turn out that the kind of evidence upon which WILLIAM BIRD EVANS was convicted was peculiarly open to mistakes—that facts subsequently adduced altered entirely the complexion of the case, and threw reasonable doubts upon the verdict, we presume the Government were not only justified, but bound, to afford prompt attention and to give instant relief. To retain an innocent man a moment after his innocence was proved, or to expose the evidence of innocence when tendered by persons of position, would equally expose a Government to censure and contempt. From all we have been able to learn we have a strong impression that the Government of the day exercised proper precautions, and that the conclusion to which it came was the only one consistent with justice.

The other question is quite distinct, that is—whether the Government has rightly or wrongly withheld the papers called for. Strongly sympathising as we do with the general views of the ATTORNEY-GENERAL upon the subject of the prerogative, expressed in a speech rarely surpassed in the Assembly, we cannot but think that in the reason for the refusal of the papers demanded it has been somewhat overstrained. There is indeed something frightful, except to a few wild colonial boys, in the idea of the Legislature absorbing all the functions of the Executive—of confounding all the branches of Government. Such is the daily tendency of Colonial Legislatures, and their advances in this direction ought to be met, at all times, by the most jealous resistance. It would seem, however, that the Assembly, if entitled to exercise any check upon Ministerial discretion—that is, to hold the Cabinet of the day responsible for the acts of the Governor—must possess the right to ask for information. No one would contend that a capricious exercise of mercy could be frequent without serious detriment to the community; yet, if information be refused, how can the Legislature judge whether the rumours of indiscretion or corruption are true, or able and worthy of further enquiry? On the other hand, if the Executive be bound not only to satisfy its conscience, but the Assembly, partly in view of the dominant section of the Assembly, how can we expect a Governor to follow his only proper guide—in such cases, his own sense of right? An Executive chief should be just as independent as a jury; he should have a moral, not legal, responsibility. The truth is, we cannot push this, or any other political problem to extremes, without being involved in absurdities and contradictions.

A Message was delivered to the House from the GOVERNOR-GENERAL consenting to furnish the papers in the case of Mr. EVANS for which renewed application had been made.

renewed application had been made. The House having gained its point, will, we hope, weigh well the momentous principles at stake. If a Government is to be responsible for the exercise of the prerogative to the Assembly, and Ministers are to stand or fall with the approbation of the House, carried by a majority of two, we fear that the prerogative of mercy will be far too dangerous for timid men to handle, and that those who are unjustly convicted will languish in unrighteous punishments for the term of their sentence. Had a jury to satisfy not their own consciences, but the outer world, before pronouncing a verdict—did their very living depend upon the concordance of their opinions with those of the spectators—trial by jury would deserve reprobation and contempt. Doubtless the dishonesty of jurors may involve their functions in disrepute, and a corrupt exercise of the prerogative may render it intolerable; but after all, the power must be conceded somewhere, and it should be held sacred. As in the case of juries, and the system of wholesale pardoning would ruin the prerogative, not because it is unnecessary, but because nothing can stand against egregious abuse, and no institution will bear the test of extreme circumstances.

The Assembly will, we hope, exercise the utmost caution. All parties in the House should equally guard against the sacrifice of great principles,—to all equally important. If there is reason to believe that the Administrators of Government acted in good faith, to the best of their knowledge and not corruptly, gentlemen should beware of setting up their opinion when acting without responsibility, as the standard by which others should be measured in the execution of a trust confided to them solely by law. Let not the finger of party touch the sacred ark in which is deposited our common and precious inheritance.

and precious literature.  
[Sydney Morning Herald, May 25 and 26.]

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### HASTY LEGISLATION.

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THE evil of hasty legislation is very strikingly displayed in the consequences of the Act of 1854 for the establishment of Affiliated Colleges. All parties regret the steps which have placed them in a position almost ridiculous; and the sooner they return to the point from which they set out the better. The Act for the establishment of the University, which passed in 1850, provided that no religious test should be administered.

"XX. And be it enacted, That no religious test shall be administered to any person in order to entitle him to be admitted as a student of the said University, or to hold any office therein, or to partake of any advantage or privilege thereof: provided always, that this enactment shall not be deemed to prevent the making of regulations for securing the due attendance of the students, for Divine Worship, at such Church or Chapel as shall be approved by their parents or guardians respectively."

guarantee respectability.' Such was the fundamental law of the Sydney University. An important and influential section of the community objected to the character of this Institution, as not being sufficiently religious; in short, that it was a Godless University. It was, however, perceived by all parties that no institution having the sanction of the State could be founded on a country of such various religious beliefs, but upon some plan of comprehension which must exclude the patronage of any particular faith or church. Notwithstanding this, all parties were most anxious to see conscientious objections removed, and to facilitate the union of all denominations in one great educational scheme. It is clear that any steps toward this end ought to have had reference to the broad principle of the University, and to the rights and interests of persons who did not object to its constitution. This seemed to be met by the proposition to establish Affiliated Colleges—originally intended to be built at the expense of the parties desiring them, and sustained wholly at their cost. In the progress of this scheme, it was proposed to grant public money in aid of the erections, and finally to provide an annual stipend for the wardens of these affiliated colleges. This was a great departure from the original idea, and conferred very distinct advantages upon some particular denominations. The bill, as first introduced, proposed to confine these privileges to the four favourite sects, but a nominal change was afterwards made, apparently conceding similar privileges to all. All this might have been sensible; but after the Affiliated College Bill had been under a second time, another prepared including important provisions—the repeal of which Mr. DALEY's bill seems to contemplate. We were taught that this "substituted" bill was hastily brought in at the close of the session, one half the members being absent, without a few hours before its discussion, was laid on the table wet from the hands of the printer. In this condition we received it. Without delay we pointed out the unfortunate inconsistency with the principles of the University, as originally founded. The clause complained of is as follows:

"IX. And whereas it has been resolved by the Senate of the University of Sydney that Honours and Degrees shall not be given to any student who shall not produce testimonials of competent religious attainments, and it is expedient to give legal prominence to this Honorary resolution: It is hereby enacted, that no student shall be given a Certificate by the University on any student who shall not produce from the Principal of his College or (if not belonging to a College) from some religious teacher, or other responsible person accredited by the University, a Certificate that he is of competent religious attainments."

This clause, it will be seen, takes up the resolution of the Senate, made contrary to the constitution of the University, and provides to give it legal permanency. The objection to the clause lies in this—that it imposes upon the Senate of the University a duty which that body cannot, will not, and dare not perform. It not only requires a certificate of religious attainments, but it imposes on the Senate the obligation to find some responsible person to certify the religious attainments of the candidates for honours. We observe in the nominal list of the Senate the names of the Right Rev. Archbishop POLDING, the Rev. ROBERT ALLWOOD, the Rev. WILLIAM PURVES, and the Rev. WILLIAM BOYCE—representatives of the four honoured denominations. The provisions of the Act just recited, bind these gentlemen "to accredit responsible persons," where a religious certificate not producible, to certify the religious attainments of a candidate for honours; that is, they are under an obligation by this law to search out and find the representatives of Mormonism, of Beardism, and of any other "ism" human or inhuman, and to call them to the assistance of the learned Senate in order that they may be sure they are not a godless corporation—not, at the worst, doing anything inconsistent with their honour and duty as Christians! We are perfectly well aware that the gentlemen who are perjuraries to this clause never fancied they would be called to such employments. They thought of their own peculiar opinions

and national interests, and left the wide world chance and fate. Having now, however, to bring this clause into practical operation, they find themselves in a position of great absurdity as well as great responsibility. It is quite obvious that any antagonism in the view of a member of a denomination, to his clerical guides, would exclude him from honours, howsoever indifferent society might be to the point of controversy. It is quite clear that any student who, having traditional faith and an hereditary Church, chose to reserve to himself the right of selection, and refuse to come in under the denomination of his forefathers, would be excluded from a degree. Supposing, for instance, a Protestant writing upon the Roman Catholic Church, yet still in suspense between the claims of the opposite systems — suppose that, having completed his course of secular education and waiting for his degree, he should refuse to make up his mind,—these gentlemen are bound to deny him the honours of the University until he has settled all the difficult points on which this ancient controversy is suspended. Of course these were consequences not foreseen, not cared for—but they now appear, and require an immediate legislative remedy. The origin of this clause is very curious. An eminent prelate visited the colony and undertook to reconcile the parties concerned in the godless college controversy. He saw that all who were refusing the privileges of the University were

reusing the privileges for free, and committing a species of suicide, that they were simply injuring themselves. He felt also that the strong protest made could not be decently abandoned unless by some appearance of concession. A meeting was held between some friends of the University and the opposing party, and the clause is the fruit of their meditations. Having come to this kind of consent, Mr. WENTWORTH, whose opinion has been quoted, addressing the right rev. prelate, said, "Well now, I don't see that we have done much good." The rejoinder of his LORDSHIP was, "Why, you see, Mr. WENTWORTH, we now give a religious character to the University." Mr. WENTWORTH, whose retiring piety is well known, replied in his peculiar manner, "Ah, my LORD, I see; I am glad we can obtain a religious character on such easy terms." The thing was not hypocrisy in the usual sense of the word. No doubt all parties sincerely wished to accomplish a desirable object, and to do so in a manner which should save both their honour and their conscience; but no man can look at the result of their endeavours without feeling how absurd it is to attempt to reconcile things in their nature utterly incompatible.

A complaint now arises that the abolition of this clause will be a breach of faith; but who

were the parties to the contract? The law of 1860 was the limit of their rights. They departed from these limits in entering into any such bargain. They compromised the interests and rights of others. The enactment of this second clause was therefore only the completion of an original wrong in making the contract, and its repeal will only restore things to the condition in which they originally stood.

They originally succeed.  
 While we say this much, we do not at all conceal the attempt to alter the preamble of the bill. The Act was meant to provide colleges in which systematic religious instruction and domestic supervision, with efficient assistance in preparing for the University lectures and examinations, should be secured. If any party in the colony wishes to establish colleges upon another plan, namely, the exclusion of religious instruction, of course they are competent to do so. For our part we have sympathy with any institution which would take young men under its roof, and profess to give them a liberal education, while excluding the inculcation of religion. We love religious liberty no less for deeming of the first importance that which lies at the basis of all human virtue as well as of all human hopes. Let us understand the proper limits of religious liberty, not to subvert and overthrow religious teaching, but to secure the free action of all denominations without permitting them to intrude upon the rights of others. From the very first we opposed the test. We opposed it with all the vigour and earnestness which in our view its folly demanded. A discussion was actually raised in the House, but the nature of the objection was either absurdly misconstrued and misunderstood, or the parties to the bill were resolved to ignore it. "The distinguished clergyman," that is Dr. LANG, who now demands the obliteration of that part of the preamble relating to religious instruction was in the House—spoke upon the bill—mythified the opposition to the test—and, by his supposed authority in religious matters, lulled to sleep the vigilance of those who would have been found there, and who would have been its strongest opponents. That hasty legislation which we have had so much reason to deplore, and which prevents the influence of well-founded objections, was the cause of the passing of this bill. It is well known that several religious bodies protested against it before it received the royal assent; and although they have since been silent, the practical difficulties of working the test prove how correctly they judged of its character.

[Sydney Morning Herald, May 18.]

MR. DEAS THOMSON has very properly called upon the Upper House to take some steps to ascertain its powers, as well as its duty, should it unfortunately become necessary to question the conduct of the Judges.

The petition of Mr. BADHAM, imputing corruption to the Judges, recently presented, was, in the first instance, rejected by the Upper House. It was afterwards thought that such a decision had been hastily adopted, and an opportunity was given for reconsideration. Upon this reconsideration, the Legislative Council persevered in rejecting the petition. The reasons assigned were most various and conflicting; by some, because the petition was in violation of Standing Orders; others because its allegations were indefinite; others because its language was improper; others because it was a reflection upon the whole court; others generally from a dislike to any attack upon the bench;—in short, the gentlemen who voted for the rejection of the petition were most careful to disclaim the reasoning of each other by which they were severally led to a common, perhaps correct conclusion.

clusion. We are quite clear that the Standing Orders of the House of Commons, prohibiting the reception of a petition which reflected upon the Courts of Justice, could never be intended to enable the Judges, although the entire body, and therefore the House itself, might be included in the accusation. So monstrous a construction of the Standing Orders would imply that should the entire Bench conspire to do wrong, the unanimity of their conspiracy would cover it, however base and vile. Nor can we think the use of language strongly reflecting on the conduct of the Judges should prevent the reception of a petition. Supposing the accusation were made that a Judge was habitually drunk, what terms of paraphrase could be employed in order to render the accusation pleasant to friendly ears? The terms "corruption" and "incapacity" are sanctioned by constitutional practice; it is not necessary in approaching the Legislature to be otherwise choicé in language than public decency demands. There are some accusations which can be couched in no terms which would extract or abate their sting. Although we give not an atom of credit to the allegations of the petitioner, we quite agree with a learned Judge, "that it is far better that once in ten years a petition of that character should be admitted, than that a suspicion should go forth that the Legislature is not accessible to the complaints of the aggrieved subjects." The conflicts between the decision of the two legislative bodies show how unsettled the practice is, and how necessary that some enquiry should be instituted. No time can be more suitable than when a strong necessity is shown, and when there is no excitement or prejudice to divert the minds of members from the real and lasting good of the country.

of it will be first necessary to ascertain the state of the law, and where we fear the result will be most unsatisfactory. Turning to British precedent, the Act of Settlement makes the Judges removable only by a vote of both Houses of Parliament. There is the alternative of impeachment, in which case the House of Lords becomes a high court of justice, and all the formalities of courts are observed. It so happens that no precedent of a guiding nature can be discovered in the practice of Parliament, even though that practice could be made applicable to ourselves. It was not, as stated by Mr. DEAN THOMSON, in his speech, until April, 1804, that any case arose calling for the interference of the Legislature. This was the case of Mr. Justice Fox, an Irish Judge, against whom a petition was presented in the House of Lords by the MARQUIS OF ABERCORN. This Judge was accused in this petition of having used violent language in the administration of justice—of defaming jurors, of inflicting arbitrary fines, of stimulating the grand jury to get up an address for the removal of the Lord-Lieutenant, and making a similar proposition to the commandant of a body of militia. This petition was presented some time before any action was taken by the Government of the day. In January, 1805, the MARQUIS OF ABERCORN moved for a committee, of which all the Lords who had been present during the session should be members, to enquire into the allegations of the petition.

Accordingly witnesses were summoned, and a considerable amount of evidence taken. A strong

Impression arose in the House that this course of proceeding was unjust to Mr. Justice Fox, and it was resolved, therefore, to take the evidence before the House in a semi-judicial form, so that the accused might be present, and, supported by his counsel, have the benefit of cross-examination of the witnesses. This process continued for some time. A bill passed, for the purpose of carrying on the proceedings from session to session. During the incidental discussions which arose upon this question, several of the lords expressed great doubts whether the House were proceeding rightly. It was seen that by conducting a judicial enquiry for the purpose of adopting a "resolution" for the removal of a Judge, they were disqualifying themselves to act, should the Commons move for an impeachment—that they were already acting as a grand jury in a case on which they would have to decide as the final tribunal. The Duke of Clarence (afterwards William IV.) was particularly vehement in his condemnation of this process. Lord Eldon, on the other hand, maintained the propriety of the proceeding, and that the right of the House to proceed by resolution could not be denied, notwithstanding the possible contingency that they would be called upon to act as a judicial body in case of a impeachment. Objections were raised by various lords to the principle of calling upon a Judge to defend himself from such imputations. Lord Eldon, however, said, in reply, that "knowing as well as any man the importance of preserving the independence of Judges, there was something equally dangerous with a condition of dependence, and that was that they should be placed above all law and control."

The feeling, however, of repugnance to this process continued to increase. Judge Fox, after having attended from session to session, petitioned the House, complaining of the enormous expense and vexation attending upon his defence. The witnesses for the prosecution, as it might be called, were paid by the Crown, whereas all the costs of the defence was thrown upon the accused. There appeared to be no probability of a termination to the enquiry, and it was closed in a very remarkable manner. Lord GRANVILLE moved "that the enquiry be adjourned to this day two months," knowing that at that time the House would not be in session, and intending by this means to get rid of the case. The motion being carried by a majority of 25 to 16, the proceedings were virtually at an end. Thus, so the instance of Judge Fox is conceded, it rather furnishes a series of warnings than precedents. It appears that the House of Lords, in the words of one of them, got into a "sea of perplexities," from which there was no escape but this abrupt and somewhat undignified movement. They admitted the petition; they appointed a committee of enquiry—to that committee the accused had no access; they then instituted an examination before the House of Lords, guarded by judicial forms; they continued the process from session to session, and finally they quashed the whole proceeding by a side-wind. In the course of the debate it was stated that the only grounds of legislative action were, "first, a crime committed by a Judge in the execution of his duty; second the non-execution of his duty; and in the third place, a supervening incapacity for his discharge." Wherever a private wrong had been committed by a Judge, it was held to be amenable to the courts of law.

It is obvious that these precedents will assist us very little. In the first place, the Houses of our Legislature stands in a different relation to each other. The Upper House, having no judicial functions, impeachment could not take place. No provision is made for the removal of a Judge, save by resolution ; and that involves a process for which Parliamentary precedent affords us no sufficient guides.

BELOW will be found correspondence between Mr. WILLIAM HENTY, the Colonial Secretary of Tasmania, and the Rev. W. B. CLARKE, the eminent geologist, in reference to the offer of an appointment in that interesting colony.

We avail ourselves of this opportunity to express the high sense we entertain of the personal worth and the scientific attainments and services of the Rev. W. B. R. CLARKE. We have long desired to put upon record our idea of those services, of which we have a tolerably accurate knowledge. The discovery of the first workable gold-field reflected high honour on, and brought substantial rewards to, the fortunate person who proclaimed that discovery. No one could desire to detract from his merit, or to lessen in public estimation the value of his labours. It will not diminish this honour to assign due merit to scientific men who, able to read the page of geology, have interpreted its contents to the scientific world. Among these Mr. CLARKE deserves a very conspicuous position.

Mr. CLARKE is a clergyman of the Church of England, and as such occupies the ecclesiastical parish of St. Leonards. In 1849, an application was made to him to undertake a general geological survey of this colony. This he thought proper to decline; but when in 1851 a new appeal was made to him through the late Bishop BROUGHTON to assist the Government in the emergency which had arisen, he was induced to lay aside his parochial duties, although not his functions as a clergyman. At the express request of the Bishop he traversed those parts of the colony which were marked out for special examination, and at his own request, as we understand, he received a commission from the same authority to exercise his ministry whenever an opportunity should occur. Thus, while as a geologist he was welcome to the miners, he did not fail to perform his duties as a divine whenever opportunities occurred. Insinuations, of course, were circulated against a clergyman who seemed to depart from the ordinary line of the clerical office, but what claim could he have on more direct and sufficient than one conveyed to Mr. CLARKE by his diocesan and at the request of the Government, and under which he lived? We are not at all inclined to reflect upon the popular prejudices against the deviation of clergymen from their proper duties. It is a crying grievance how-

their profession. It sometimes occurs, however, that, driven by an overruling constraint, the clergyman has recourse to literature for their bread, and the censorious world is disposed to reproach them for doing anything but pray and preach. Events, however, show that they have powers more useful when employed in the service of the pen than of the Church, and what was originally a necessity becomes a high and important vocation. There are other instances in which the special attainments of men mark them out for their peculiar work. Will any one affirm that the Jesuits of old, who added so much to the scientific knowledge of the world, were wrong in cultivating their peculiar aptitudes: that DR. PRIESTLEY—almost the father of the science of electricity—was not more beneficially employed in his laboratory than in his pulpit? That

Dr. LIVINGSTONE was wrong when, finding an opening and feeling the courage to pursue it, he abandoned the teaching of the alphabet and the elementary instruction of a few demi-savages, in order that he might resolve a great geographical problem with which his name will be ever associated, and open to millions the paths of science and the doctrines of peace? Just as with Mr. CLARK, who, possessing peculiar adaptation for a work of great importance, yielded to the importunities of men who had a right if not to command, at least to request, his assistance.

Mr. CLARKE commenced the study of this interesting science as early as the year 1817, under Dr. E. D. CLAIBORNE, the first geologist, and Professor SINGWICK. This was not mere study of books, but a personal examination of the most celebrated formations of Europe. He travelled extensively in England and Wales, and on the Continent from 1820 to 1839, not omitting a single year. In 1820 he visited the Lake district of Westmoreland and Cumberland, the district of Man; in 1821, the coal-fields of Staffordshire; in 1822, the coal-fields in 1822, the Lake district and North Wales; in 1823, the chalk and oolitic and tertiary districts of Yorkshire and Lincolnshire; in 1824, the chalk districts of Sussex and Normandy; in 1825, the central and southern parts of France, the Alps, and the north of Italy; in 1826, the Netherlands; in 1827, the Netherlands, the Rhine, Prussia, Prussia, and Holland; in 1828, Belgium, the Rhine, and the tertiary districts of Nassau; in 1829, the volcanic districts of the Rhine and Moselle, completing also a survey of the counties of Suffolk, Nor-

the counties of Silesia, in 1837; in 1839, the chalk districts and the formations of the frontiers of France and Belgium; in 1831, Dorsetshire and the West of England; in 1832, Dorsetshire and the Isle of Wight, Sussex, and the south-west of England; in 1833, the coal beds, &c., of the Boulonnais; in 1835, the north of France; in 1836, the Channel Islands and the Isle of Portland; in 1837, the new red sandstone districts of Staffordshire, Cheshire, and Lancashire; in 1838, the Silurian and new red sandstone and coal districts of Shropshire, Herefordshire, and Monmouthshire, and South Wales; in 1839, the colony of the Cape of Good Hope. Besides the regular explorations other journeys were taken to interesting localities.

We have noticed these particulars to show that Mr. CLARKE's attainments in science, are not such as amateurs who work upon cases of specimens and confine themselves to books are supposed to possess. Men only who have looked at nature herself in her wonderful developments, who have been enabled to compare one district with another, to see what is uniform, what is special and various—can from these multitudinous objects generalise into order and become the masters of science. No man could have undertaken journeyings so numerous and so laborious, without having the enthusiasm for his vocation in constant activity, and no man with the intelligence of a scholar could prosecute this extended survey without acquiring great knowledge and precision. It was fortunate for a new country like ours that, at so little expense, the highest qualifications could be brought into its service, and it is

was cordially brought into its service, and it is disgraceful, after that service is rendered, to depreciate its worth and to refuse honour where honour is due. It has not been merely in the question of knowledge that Mr. CLARKE has distinguished himself. Before his arrival in this colony his labours were known and recognised. In L'ABOISSIÉ's *History of the Progress of Geology*, honourable mention is made of his contributions on geology, and for a succession of years papers from his pen appear in scientific works, the enumeration of which would require a catalogue of geology almost all the topics within the range of geological enquiry. Many of these are found in the *Magazine of Natural History and the Transactions and Proceedings of the Geological Society*.

Since his arrival in this colony Mr. CLARKE has been most laborious in his contributions, and has been successful through the scientific work, which he has carried through the classification of his Reports to the Government of New South Wales have been revised and abstracted by M. Delesse in his tract "Sur le Gisement et sur l'Exploitation de l'Or en Australie." The respectable publication issued by the Royal Society of Tasmania was enriched with many papers contributed by Mr. CLARKE, and it is to be regretted that they are not published in a more convenient form, relating as they chiefly do to the geological phenomena of this country.

In 1857, Mr. CLARKE visited Tasmania, but from ill health he was not able to effect more than a cursory investigation. The reports which he furnished have, however, published in the Blue Book of the Colonies, and it is regretted that their value has suggested to the present Executive the propriety of inviting his more permanent labours.

Mr. CLARKE has not received due credit in reference to the discovery of gold in Australia. Sir RODRICK MURCHISON, the eminent geologist, gathered from facts which came to his knowledge, that gold would be found in New South Wales, and made communication to the British Government to that effect; he has therefore the priority of European communication. But in 1841, Mr. CLARKE found gold to the west of Hartley, under Stoney Range, and near Green Swamp, and in 1843 he first communicated the fact of the existence of gold-fields in Australia to Sir GEORGE GIFFS. Sir GEORGE enjoined him to silence, having an impression that the discovery would be pernicious.

The points of priority in discovery were laid before VIMONT D'ARCHELAG, the editor of a geological work, published under the auspices of the French Government—who pronounced that the proof was undeniable of the right to the priority of the discovery of gold in Australia. *['J'ai recu avec beaucoup d'intérêt la preuve irrécusable de votre droit à la priorité de la découverte de l'or en Australie; découvertes que j'ai n'eût guère possible de vous contestées de bonne foi.]* This discovery, made in the light of science, assured us of the certainty of its inductions, and opens a brilliant prospect for the future. We no longer depend upon luck, but tread over the surface of the earth by guided lines whose skill is the result of infinite toil, we witness wonders such as the magicians of past ages

never pretended to perform.

In 1851, Mr. CLARKE published a pamphlet on the gold-fields of this and the neighbouring colonies. In this he first pointed out the auriferous regions afterwards of world-wide celebrity. The Gold Committee appointed by the Victorian Assembly did ample justice to the geological fame of Mr. CLARKE, and a gratuity was voted to him by the Legislature of £1000, of which, to its immortal shame, the greater part remains unpaid to this day.

Mr. CLARKE has pointed out to the Government of this colony more than 100 gold localities. Some of them are already famous. These researches extend from 38° to 28° South—upwards of 700 miles. The gold-field of New Zealand was sought in consequence of information contributed by Mr. CLARKE. Such a

series of successes rarely falls to the lot of any man of science. They secure to him the admiration and imperishable claim to the gratitude of the colonies, and that without lessening the mass of any who have been co-labourers in the same field, or who, under some lucky star, have stumbled upon a splendid prize.

The sum of £1000 was voted to Mr. Glanville by the Government of the North-West in consideration of reports contributed at various times—rather to indemnify him for expenses he incurred, than as a recompense for his geological researches.

When, however, we consider how gold has been since found—at how many spots—how near to the surface—entangled in the roots of the trees—under-lying grass—thrown up in excavations—we can only express our amazement that it was not at a much earlier period amongst the most precious exports of the colony. Not that we imagine that this direction of colonial industry would have been so beneficial in the long run; time was required to prepare this country for the extraordinary developments of the last few years.

(Sydney Morning Herald, May 20.

(Y-446.) Colonial Secretary's Office,  
10th March, 1935.

Sir,—The Legislature of this colony, having, during its late session, made provision for the employment of a Geological Surveyor of the Colony, with a report on its mission and the results of the work directed by the Government to request that you will do them the favour to accept the appointment.

The sum voted by the Parliament is £5000, and from this, it is proposed to allow £600 per annum as the remuneration for the services of the Geologist, with an allowance for travelling expenses.

The duties of such an officer it would be presumptuous in us to attempt to define. It is desired that the Surveyor should, before the expiration of six years, prepare a geological map of Fanning.

[illegible][illegible]

I have the honor to be, Sir,  
Your most obedient servant,  
W. B. CLARKE.

The Honorable the Colonial Secretary,  
West House,

Robert Town.			
LIST OF ESTATES SURRENDERED OR PLACED UNDER SEQUESTRATION AT SYDNEY.			
	Stated liabilities.	Stated assets.	
May			
1. Frederick Gurney de Costa, of Sydney, gentleman	161 11 0	5	0
11. John McLaren, of Sydney, brewer	10	536	8
12. Robert King, of Sydney, agent	1785 0 0	76	1
19. John Williams, of Sydney, butcher	330 10 7	730	3
Kenneth Stewart, of Padding- ton, coal-merchant	111 3 10	25	0
19. Richard and Francis Smith, of Sydney, clerks	507 2 2	878	13
20. Patrick Cummins, of Sydney, publican	92 5 3	25	1
Harris Haigh, of Newcross, gentleman	98 2 3	21	0
Thomas Widdowson, of Sydney, sham, licensed victualler	416 16 2	10	0
21. William Johnstone, of Sydney, Sydney, clerk in his ordinary	1755 16 8	118	6
John Chinnam, Allyn River, gentleman	115 0 0	4	0
24. John Breen, of Sydney, broker	39 16 13	13	0
Vincent Carr, the elder, of Parramatta	1890 8 11	1180	16
Louisa Wilson, of Sydney, lodging-housekeeper	33 2 1	3	0
27. Edward Hawkins, of Sydney, mason and builder	4739 3 6	4733	17
29. David Carmichael, of Sydney, publican	448 1 2	40	0
William Shearman, of Sydney, licensed victualler	1276 14 7	1500	0
31. Owen Orley, of Mudgee, widow	1079 4 9	1010	0
William Scory, of Wollongong, ironmonger	1258 4 5	853	7
June			
1. Richard Brown, of Sydney, banker	1224 5 0	665	14
George Fulton, of Bathurst, licensed victualler and cabinet maker	906 0 0	776	0
2. Myers Mowse, of Sydney, gentleman	121 0 0	33	0
4. Mary Ann West, of Sydney, widow	46 14 2	10	0
6. Alfred Levett, of Rocky River, storekeeper	820 3 0	320	0
7. Henry Mason, of Sydney, dealer	210 0 0	155	0
8. Samuel Collins, of Sydney, latter	54 3 0	9	0

**SYDNEY FEMALE REFUGEE SOCIETY.**—This report of the committee of this admirable and useful association has just been printed and circulated. A strong appeal is made to the religious and charitable public for increased assistance. We cannot better help the society than by transferring the report to our columns, and earnestly asking for it the sympathy of all Christian people who desire to imitate the example of Him, who, addressing the sinner and fallen, but repentant woman,

[illegible]

Christian and philanthropic. Mr. WOOLLEY: We regret to observe the decease of this gentleman. The event took place at St. Leonard's on-the-sea, occasioned by an organic disease under which he had laboured some time, suffering most excruciating pain. Mr. WOOLLEY is a noble colonist, and a devoted friend to Europe. He was about five years ago, and intended speedily to return. He was a man of great benevolence of character, and from the foundation of this institution, the Sydney Infirmary and Dispensary, he was the honourable treasurer, until the time of his decease. He was a member of the committee for procuring the HARRISON OF PUGH JACKSON.—Owing to the recent erection of a new Lighthouse on the four Obelisks for steering guides, we deem it necessary to re-publish the "directions," for the use and information of those masters of vessels bound to our port. (See page 8.)















